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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,138	02/17/2004	Juanito B. Calagui	Calagui - 4	2242

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EXAMINER

CONLEY, FREDRICK C

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,138

Applicant(s)

CALAGUI, JUANITO B.

Examiner

FREDRICK C CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 11-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,940,913 to Horowitz.

Claims 1 and 6, Horowitz discloses an apparatus comprising a pillow 12 and left and right end pieces (14,16); wherein the left end piece has a first recess (20,22) located at the distal ends of the concave portion into which a left portion of the pillow can be inserted; wherein the right end piece has second recess (20,22) located at the other end of the concave portion into which a right portion of the pillow can be inserted, the pillow is formed from a visco-elastic foam that is inherently softer than the polyurethane foam used in the left and right end pieces (col. 2 lines 53-56)(col. 3 lines 4-7).

Claims 2 and 7, wherein the recess of the left end piece and the recess of the right end piece have a width, which is about the same as a dimension of the distal ends of the truss 18 of the pillow

Claims 3 and 8, wherein the recess of the left end piece and the recess of the right end piece have a width and a height, which is about the same as a width, and height of the distal ends of the truss 26 of the pillow

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,647,076 to Gearhart in view of U.S. Pat. No. 6,311,351 to Murphey.

Claim 1, Gearhart discloses an apparatus comprising a pillow 14 and left and right end pieces 16; wherein the left end piece has a first recess located at the distal ends of the concave portion 30 into which a left portion of the pillow can be inserted; wherein the right end piece has second recess located at the other end of the concave portion 30 into which a right portion of the pillow can be inserted.

Gearhart fails to disclose the pillow being substantially softer than the left and right end pieces. Murphey discloses support having a first foam strip centered between two second foam strips having a greater firmness than the first foam strip (col. 1-2 lines 68 & 1-3). It would have been obvious to one having ordinary skill in the art at the time of the invention to have the pillow of Gearhart softer than the left and right portions as taught by Murphey in order to provide localized pressure point relieve for the maternity support.

Art Unit: 3673

Claim 2, wherein the recess of the left end piece and the recess of the right end piece have a width, which is about the same as a dimension of the distal ends of the truss 26 of the pillow (fig. 1)(Gearhart).

Claim 3, wherein the recess of the left end piece and the recess of the right end piece have a width and a height, which is about the same as a width, and height of the distal ends of the truss 26 of the pillow (fig. 1)(Gearhart).

Claim 6, Gearhart discloses inserting left and right end pieces 14 located at distal ends of a truss 26 of a pillow into first and second recess located at distal ends of a concave portion 30 of a left and right end piece 16. Gearhart fails to disclose the pillow being substantially softer than the left and right end pieces. Murphey discloses support having a first foam strip centered between two second foam strips having a greater firmness than the first foam strip (col. 1-2 lines 68 & 1-3). It would have been obvious to one having ordinary skill in the art at the time of the invention to have the pillow of Gearhart softer than the left and right portions as taught by Murphey in order to provide localize pressure point relieve for the maternity support.

Claim 7, wherein the recess of the left end piece and the recess of the right end piece have a width, which is about the same as a dimension of the distal ends of the truss 26 of the pillow (fig. 1)(Gearhart).

Claim 8, wherein the recess of the left end piece and the recess of the right end piece have a width and a height, which is about the same as a width, and height of the distal ends of the truss 26 of the pillow (fig. 1)(Gearhart).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-5 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,940,913 to Horowitz in view of U.S. Pat. No. 5,638,564 to Greenawalt et al.

Claims 4 and 9, Horowitz discloses all of the Applicant's claimed limitations except for having the pillow left and right pieces inserted into a sleeve. Greenawalt discloses a modular pillow that is inserted into a sleeve 17. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a sleeve as taught by Greenawalt in order to provide an outer covering for the pillow of Horowitz.

Claims 5 and 10, Horowitz, as modified, fails to disclose a pillow cover. The Examiner takes Official Notice of the use of a pillow case with any pillow is well known, and it would have been obvious for one having ordinary skill in the art at the time of the invention to employ a pillow case in order provide a protective covering for the pillow of Horowitz.

Allowable Subject Matter

Claims 11-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3673

Response to Arguments

Applicant's arguments with respect to claims 1-3 and 6-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C CONLEY whose telephone number is 703-308-7468. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC




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